

Tuesday - October 16, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, and Walter R. Boland; Corporation Counsel William F. Slawter; City Manager Neal Creighton.; Associate City Manager/City Clerk William F. Wolcott, Jr..

Absent: Councilman Louis Bisette

## INVOCATION

The invocation was given by Councilman Mary Lloyd Frank.

## APPROVAL OF THE MINUTES - OCTOBER 9, 1984

1. Mayor McDevitt announced the approval of the minutes of the October 9, 1984 meeting as submitted.

## **RESOLUTION NO. 84-189 - RESOLUTION TO AUTHORIZE THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE A GRANT AGREEMENT WITH THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR THE PACK PLAZA UDAG PROJECT**

2. Consideration was given to a resolution to authorize the Mayor to sign on behalf of the City of Asheville a Grant Agreement with the U. S. Department of Housing and Urban Development for the Pack Plaza UDAG Project.

Mayor McDevitt said on May 9, 1984, the City received notification from the U. S. Department of Housing and Urban Development of Preliminary Approval for UDAG funding in the amount of \$3,400,000 for the Pack Plaza Project. On October 3, 1984, the City received a Grant Agreement from HUD which sets forth specific terms and conditions of the grant. Execution of the Grant Agreement will obligate the grant funds for the project. Final approval for the project will be obtained only after all evidentiary material and other documents called for in the Grant Agreement have been submitted to and accepted by HUD.

Revenue to be appropriated on 10/16/84:

General Revenue Sharing 300,000

Community Development 1,529,100

Buncombe County 660,000

Developer 56,000

UDAG 3,400,000

Project Revenue 1,000,000

Total Appropriation 6,945,100

Project will increase City tax base by approximately \$10,135,000. Net increase of tax paid of City is estimated to be \$79,107

annually, (includes property, sales and personal property tax)

Mayor McDevitt read the resolution.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Price, Resolution No. 84-189 was unanimously adopted.

Complete text of Resolution No. 84-189 will be found in Resolution Book No. **15** at page **57**.

### **PRESS RELEASE RELATIVE TO UDAG APPLICATION FOR PROPOSED WALL STREET PROJECT**

Mayor McDevitt read a prepared press release statement stating that: "We have been notified unofficially by HUD, that the UDAG application for the proposed Wall Street Project has been rolled over until the November application period. There continues to be interest in this area by developers, and Council is in the process of considering whether or not to approve the roll over or to seek a new developer or both. As we have stated repeatedly, this is a lengthy process, and while we are disappointed, we are not surprised and will continue our efforts on this project.

### **PROCLAMATION - LEAGUE OF WOMEN VOTERS WEEK - OCTOBER 14-20, 1984**

3. Mayor McDevitt read a proclamation proclaiming the week of October 14-20, 1984 as "League of Women Voters Week".

Mayor McDevitt presented the proclamation to Leah Carpen.

### **PROCLAMATION - UNITED NATIONS DAY - WEDNESDAY, OCTOBER 24, 1984**

4. Mayor McDevitt read a proclamation proclaiming Wednesday, October 24, 1984 as "United Nations Day".

Mayor McDevitt presented the proclamation to Jan Ramsey.

### **ORDINANCE NO. 1471 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (REZONING PROPERTY LOCATED ON CRAYTON ROAD)**

5. Consideration was given to the third reading of Ordinance No. 1471, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended (rezoning property located on Crayton Road).

Mayor McDevitt said the Asheville Planning and Zoning Commission at its meeting on September 5, considered the rezoning of Ward 7, Sheet 15, Lots 85, 85¼, and 229 from R-3 Residential District to LI Light Industrial District. Staff pointed out that this property on Crayton Road has been underutilized for some time and there exists a potential at this time for use of the now vacant land. Also, the Asheville Chamber of Commerce lists this property as potential industrial property. After discussion, the Commission voted to recommend approval to City Council that Ward 7, Sheet 15, Lots 85, 229, and a portion of Lot 85¼ be rezoned to LI Light Industrial District. The Commission also recommends that a 40' buffer be provided and that a "No Left Turn" sign be placed on Crayton Road at the exit from the property. This ordinance was read on first and second reading on October 9, 1984.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1471 passed on third reading.

Complete text of Ordinance No. 1471 will be found in Ordinance Book No. **10** at page **221 and 222**.

### **PUBLIC HEARING - URBAN MASS TRANSPORTATION ADMINISTRATION - SECTION 9A, TECHNICAL STUDIES PLANNING GRANT**

6. A public hearing was held relative to the submission of an application with the Urban Mass Transportation Administration, Section 9A, Technical Studies Planning Grant.

Mayor McDevitt said this public hearing will afford the citizens of Asheville an opportunity to express their opinion relative to the filing of an application for a Technical Studies Grant. The total amount of grant funds being applied for is \$7,000; funded 80% by the federal, 10% by the state, and 10% local funding.

Mayor McDevitt opened the public hearing at 4:21 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Carl Owenby, with the Asheville Transit Authority, said this public hearing is a federal requirement for the receiving of Section 9A, Technical Studies Planning Grant funds.

Mayor McDevitt closed the public hearing at 4:24 p.m.

## **PUBLIC HEARING - PROPOSED ORDINANCE AMENDING CHAPTER 5 (ANIMALS AND FOWLS) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE**

7. A public hearing was held relative to a proposed ordinance amending Chapter 5 (animals and fowls) of the Code of Ordinances of the City of Asheville.

Mayor McDevitt said this ordinance will provide regulations for the keeping of animals and fowls in the City of Asheville. Council will receive public comments relative to the proposed ordinance, but will take no action on the ordinance at this meeting.

Corporation Counsel Slawter said this proposed ordinance would enlarge the approach to animal control in the City of Asheville. He said the main item in the proposed ordinance is provisions for nuisances relating to animals. He said most of the provisions in the existing dog control ordinance are being carried forward in this proposed ordinance. Mr. Slawter briefly outlined the provisions of the proposed ordinance.

Mr. T. V. Harris spoke in support of the ordinance, stating that Council needs to take some action for animal control in the City.

Mr. Wilson with the SPCA in Black Mountain requested that several sections of the proposed ordinance be amended. He said individuals should not be allowed to take their neighbor's dog to the shelter, and this portion of the ordinance should be deleted. He said the animal control officers should have the full responsibility for animal control.

Upon inquiry of Corporation Counsel Slawter, Mr. Wilson agreed that an individual could restrain a neighbor's animal until an Animal Control

Officer arrived.

A discussion was held with Mr. Wilson relative to State laws on neglect and abuse of animals.

Mr. Robert L. McClure, 22 Westgate Road, spoke in support of the ordinance. He said he felt the proposed ordinance would eliminate a problem in his neighborhood with an attack dog training center.

Mr. William Darden of 20 Springside Drive, said he and his wife sometimes have 50 or more homeless and wounded cats on their property. He criticized Council for not consulting a veterinarian before creating an ordinance limiting pet owners to no more than six cats on their property. He said this is their hobby, and they would move out of the City if the ordinance is approved. He requested that the ordinance be amended to include a grandfather clause. He also requested that the ordinance address that no animal picked up and taken to the animal shelter will be sold for medical experiments. He said it is his understanding that the Buncombe County Animal Shelter sells animals for medical experiments. He requested a copy of any petitions presented to the members of Council relative to his keeping of cats on Springside Drive.

Councilman Frank advised Mr. Darden that he could comply with the ordinance in keeping more than six cats, if he obtains a permit and complies with all requirements.

Mayor McDevitt informed Mr. Darden that members of Council have not received copies of any petitions relative to his cats on Springside Drive.

Mr. Jack Nelson of 1 Sanford Drive, spoke in support of the ordinance, stating that the proposed ordinance would eliminate problems in his neighborhood.

Mr. Walker of 50 Merchant Street also spoke in support of the ordinance, citing problems in his neighborhood.

Janet Jackson, President of the Buncombe County Humane Society, spoke in support of the ordinance, stating that strong enforcement should be given to the nuisance provision. She requested that the City hire additional manpower for enforcement of the ordinance. She suggested that the ordinance provide for license requirements for cats neutered and unneutered, providing for a larger fee for unneutered cats. She said that qualifications

for an animal control officer should be well thought out. She said it should be someone who is concerned about animals and qualified. She said the Buncombe County Humane Society would be glad to provide suggested qualifications for the animal control officer. She said strong enforcement is needed for the investigation of cruelty to animals. She suggested that pet ID tags be required for dogs, and a collar or tattoo mark for dogs and cats.

Janice Willard of Norwood Park spoke in support of the ordinance citing problems she is having with dogs on her rental property.

Mr. Felkel of 135 Virginia Avenue spoke in support of the ordinance, stating that he was having problems with a dog tied close to his sleeping quarters.

Mr. Louis Bryan of 15 Tanglewood Drive also spoke in support of the ordinance, stating that he felt this would eliminate many problems in his neighborhood.

Ruth Bullock of Norwood Park also spoke in support of the ordinance, stating that an ordinance should be passed that no cats or dogs be allowed in a heavily populated residential neighborhood.

Nancy Allsworth of 149 Dunwell Avenue said she felt the proposed ordinance would alleviate a lot of their problems in their neighborhood.

Upon inquiry of Mrs. Allsworth, Mayor McDevitt said the provisions in the ordinance would not permit an animal control officer to go inside a residence to investigate dogs, without an administrative search warrant.

Henry Allsworth of 149 Dunwell Avenue also spoke in support of the ordinance.

Mr. Tom Gardner of Dunwell Avenue, spoke in support of the ordinance and requested that the ordinance not allow a grandfather clause.

Mayor McDevitt closed the public hearing at 5:44 p.m.

Mayor McDevitt noted that all comments would be taken under consideration and any comments individuals wish to send in would be considered prior to adoption of the ordinance.

### **RALPH BISHOP - COMMENTS - RELATIVE TO RESOLUTION NO. 84-189 - DIRECTING ATTENTION TO THE CITY OF ASHEVILLE**

Ralph Bishop spoke in opposition to Resolution No. 84-189, particularly with Council exercising eminent domain and then giving the property to a developer.

Mr. Bishop also spoke to members of Council relative to Councilman Boland's trip to Pittsburgh, stating that all

Council members should direct their attention to the City of Asheville, rather than other cities and towns.

**ORDINANCE NO. 1473 - A BUDGET ORDINANCE AMENDMENT TO APPROPRIATE FOR PURCHASE ORDERS ISSUED AND OUTSTANDING ON JUNE 30, 1984**

8. Consideration was given to a budget ordinance amendment to appropriate for purchase orders issued and outstanding on June 30, 1984.

Mayor McDevitt said appropriations for purchase orders issued and outstanding at the end of each Fiscal Year must be carried forward and reappropriated to the next year's operating budget. This action is basically a "bookkeeping" transaction carrying forward appropriations for purchase orders and contracts issued and outstanding at June 30, 1984.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1473. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1473 passed on first and final reading.

Complete text of Ordinance No. 1473 will be found in Ordinance Book No. **10** at page **224**.

**ORDINANCE NO. 1474 A BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDING FOR CONTRACTED CONSTRUCTION FOR THE EAST END/VALLEY STREET PROJECT**

9. Consideration was given to a budget ordinance amendment to provide funding for contracted construction for the East End/Valley Street Project.

Mayor McDevitt said this amendment recognizes revenues from land disposals and appropriates the funding available to the East End/Valley Street Project. This will provide \$35,000 for contracted construction for the East End/Valley Street Improvement Project.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1474. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1474 passed on first and final reading.

Complete text of Ordinance No. 1474 will be found in Ordinance Book No. **10** at page **225**.

**ORDINANCE NO. 1475 - A BUDGET ORDINANCE AMENDMENT FOR TRANSPORTATION PLANNING**

10. Consideration was given to a budget ordinance amendment for transportation planning.

Mayor McDevitt said this budget ordinance will establish a budget in the Planning Department to carry out the Fiscal 1984-85 Transportation Planning Program, as amended. This budget amendment in the amount of \$47,825 will provide an appropriation for the Planning Department to carry out Fiscal 1984-85 Planning Work Program for Transportation Planning. Funding is provided by Federal and State Transportation Funds.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1475. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1475 passed on first and final reading.

Complete text of Ordinance No. 1475 will be found in Ordinance Book No. **10** at page **226**.

**ORDINANCE NO. 1476 - BUDGET ORDINANCE TO ESTABLISH A CAPITAL PROJECT FUND ENTITLED "69 - DOWNTOWN URBAN REDEVELOPMENT FUND"**

11. Consideration was given to a budget ordinance to establish a capital project fund entitled "69 - Downtown Urban Redevelopment Fund".

Mayor McDevitt said this budget ordinance will establish a capital project for the purpose of accounting for major downtown redevelopment projects. This budget in the amount of \$6,945,100 is initially for the South Pack Square Redevelopment Project.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1476. This motion was seconded by Councilman Myers.

On a roll call vote of 6-0, Ordinance No. 1476 passed on first and final reading.

Complete text of Ordinance No. 1476 will be found in Ordinance Book No. **10** at page **227**.

**ORDINANCE NO. 1470 - AN ORDINANCE AMENDING SECTION 28-81.2(b), SECTION 28-81.4 AND SECTION 28-82 OF ARTICLE IV, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (OTTARI ROAD).**

12. Consideration was given to the third reading of Ordinance No. 1470, an ordinance amending Section 28-81.2(b), Section 28-81.4 and Section 28-82 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville (Ottari Road).

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1470 passed on third reading.

Complete text of Ordinance No. 1470 will be found in Ordinance Book No. **10** at page **220**.

**ORDINANCE NO. 1472 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED ON HAYWOOD ROAD**

13. Consideration was given to the third reading of Ordinance No. 1472, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended (rezoning property located on Haywood Road).

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1472 passed on third reading.

Complete text of Ordinance No. 1472 will be found in Ordinance Book No. **10** at page **223**.

**RESOLUTION NO. 84-190 - RESOLUTION AMENDING THE TENTH YEAR COMMUNITY DEVELOPMENT BLOCK GRANT ADMINISTRATION BUDGET (CONTRACT SERVICES PROVIDED**

**BY THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL)**

14. Consideration was given to a resolution amending the Tenth Year Community Development Block Grant Administration Budget (contract services provided by the Asheville-Buncombe Community Relations Council).

Mayor McDevitt said the Asheville-Buncombe Community Relations Council staff has periodically provided staff support contract services to the City of Asheville's Community Development Block Grant program. This resolution will authorize the Mayor to sign all necessary contract agreements by and between the City and Asheville-Buncombe Community Relations Council. This contract in the amount of \$25,519 for Asheville-Buncombe Community Relations Council staff service support to monitor and prepare HUD required Environmental Reviews and Labor Standard Reports.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 84-190 was unanimously adopted.

Complete text of Resolution No. 84-190 will be found in Resolution Book No. **15** at page **58-59**.

**APPEAL OF MELVIN C. WALSH, JR.'S REQUEST FOR LINE-OF-DUTY DISABILITY RETIREMENT**

Mayor McDevitt announced the appeal hearing in the matter of Melvin C. Walsh, Jr.'s request for line-of-duty disability retirement has been rescheduled until November 13, 1984 at the request of Mr. Melvin C. Walsh and with the consent of his attorney, Mr. Max Cogburn.

**AGREEMENT AUTHORIZED WITH THOMAS RIVENS**

At the request of the Corporation Counsel, Councilman Price moved to authorize the City Manager to sign an agreement with Mr. Thomas Rivens, providing that the City of Asheville will not appeal the Civil Service Board's ruling relative to Mr. Rivens, and Mr. Rivens would drop his complaint charges against the City of Asheville with the Asheville-Buncombe Community Relation Council. This motion was seconded by Councilman Boland and carried unanimously.

**CLAIMS - KEN INGLE (SEWER) - MARILYN LONON (STREETS) - LAURA HAYMORE (WATER)**

The City Clerk presented claims received from Ken Ingle (Sewer) - Marilyn Lonon (Streets) and Laura Haymore (Water).

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

**LAWSUITS - BETTY AND DONNIE BENSON VS. MARGARET LEWIS AND CITY OF ASHEVILLE (AUTO ACCIDENT) - JAMES E. DAVIS VS. LEE WARREN, BOB MEDFORD, AND WALT ROBERTSON (ALLEDGED VIOLATION OF CIVIL RIGHTS DURING A POLICE INTERROGATION)**

The City Clerk said the City was served with a summons in connection

with the lawsuits involving Betty and Donnie Benson vs. Margaret Lewis and City of Asheville (Auto Accident) - James E. Davis vs. Lee Warren, Bob Medford, and Walt Robertson (Alleged violation of Civil Rights during a police interogation).

Mayor McDevitt referred the summonses to the Corporation Counsel for investigation and recommendation.

**REPORTS FROM MEMBERS OF COUNCIL**

Mayor McDevitt requested that Councilman Boland and Vice-Mayor Bratton report on their recent trips to Pittsburgh

and Roanoke to members of Council at the Pre-Council meeting on October 23, 1984.

Mayor McDevitt also announced that Councilman Price would be representing the City of Asheville with the Land-Of-Sky Regional Council in a three-day trip to Lexington, Kentucky and several cities in Virginia relative to proposed developments.

### **ADJOURNMENT**

Councilman Frank moved to adjourn the meeting at 6:15 p.m. This motion was seconded by Councilman Price and carried unanimously.

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MAYOR CITY CLERK

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